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## Appeal Decision

Site visit made on 14 November 2018

**by Elizabeth Pleasant DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 December 2018**

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**Appeal Ref: APP/M1005/W/18/3208018**

**To the rear of 68 Ladywood Avenue, Belper, Derbyshire DE56 1HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr J and Mrs J Brassington against the decision of Amber Valley Borough Council.
  - The application Ref AVA/2017/1340, dated 5 December 2017, was refused by notice a dated 1 February 2018.
  - The development proposed is described as a semi bungalow.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are the effect of the proposed development on the:
  - Character and appearance of the area; and
  - Living conditions of future occupiers and the existing occupiers of 58 Far Laund, with particular regard to privacy and amenity space.

### Reasons

#### *Character and appearance*

3. The appeal site currently forms part of the extensive back garden belonging to No 58 Laund Road and adjoins the rear gardens of neighbouring properties on Ladywood Avenue and Laund Avenue. The houses on the adjoining streets are a mix of detached, semi-detached houses and bungalows. The properties generally front onto the street and have been developed in perimeter blocks with relatively generous back gardens. Their general alignment, consistent plot width and the space between the backs of the properties all contribute to the character and appearance of the area which has a distinct urban grain.
4. The proposal is for a single detached bungalow with rooms in the roof. The existing garage within the garden of No 68 Ladywood Avenue would be demolished to allow an access to be formed from Ladywood Avenue and the new bungalow would be built away from the street and at right angles to the neighbouring houses.

5. Despite the location of the proposed dwelling within a back garden area, it would be clearly visible from Ladywood Avenue and there would be views of the development from both the proposed means of access and above the roof of No 66. I appreciate that the scale of the dwelling is similar to neighbouring bungalow development, however in this back garden location without a street frontage, it would not contribute to the street scene and nor would it integrate into the established pattern of development in this area. Furthermore, it would be an incursion of built development into an area of open garden land which contributes to the overall spatial qualities of the area.
6. I have had regard to the many other examples provided by the appellant demonstrating where garden land has previously been developed in Belper and some of which I saw on my site visit. However, I do not know the precise details of these developments or their original site characteristics. From the evidence I have before me, none of these other examples appear to relate to a development that has taken place where their immediate surroundings are characterised by perimeter block development as is the case in this appeal. They are not therefore directly comparable to this appeal case, which I have considered on its own merits. Furthermore, the existence of those other developments would not justify the harm I have identified in this appeal case.
7. I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would conflict with the development plan and in particular with Saved Policies LS3 and H12 of the Amber Valley Local Plan, 2006 (LP) which are consistent with the design principles in the National Planning Policy Framework and seek to ensure that new development, amongst other things, respects the character of their surroundings, including its layout, and takes account of the relationship between development proposals and neighbouring buildings and the spaces between and around those buildings. I also find conflict with the Council's Residential Development Supplementary Planning Document (SPD) which seeks to ensure that new development respects established patterns of development.

#### *Living conditions*

8. The Council are concerned that given the proximity of the proposed dwelling to the rear garden of No 58 Laund Road, the roof windows in its rear elevation would provide opportunities for the overlooking of the rear garden of 58 Laund Road.
9. The rear elevation of the proposed bungalow would be approximately 3.5m from its common boundary with the rear garden of No 58. However, No 58 has a garden length almost twice the length of its neighbours and the host property is sited at least 40-50metres away from the proposed dwelling. Consequently, any overlooking from the proposed bedroom windows would only be over the very end of No 58's garden, which in this location is already overlooked to some extent by existing properties on Ladywood and Laund Avenue.
10. I appreciate that the siting of the property would be such that it would have a shallow rear garden. However, given the size of the proposed dwelling relative to its plot size and location, there would be sufficient private external amenity space around the dwelling to meet the needs of future occupiers. Furthermore, taking into account the distance the new dwelling would be from No 58's rear windows and private amenity space, coupled with the large size of its rear garden and the design of the proposed roof windows, I do not consider that the

proposed dwelling would have a significantly harmful effect on the living conditions, including privacy of the existing occupiers of No 58.

11. I conclude that the proposed development would not have a harmful effect on the living conditions of the occupiers of No 58 Far Laund and would provide adequate living conditions for future occupiers, having particular regard to privacy and amenity space. There would therefore be no conflict with the development plan and in particular with Saved Policy H12 of the LP or the SPD which seek to ensure, amongst other things, that new development provides adequate amenity space for each dwelling and does not unduly affect the amenities or privacy of adjoining or adjacent properties.

### **Other Matters**

12. I appreciate the appellant's desire to build a new home for their growing family, and the work that has been done to try and work with the Council to secure a grant of planning permission. However, the private wishes of an individual do not outweigh the harm I have identified to the character of the area. Furthermore, the allegations that have been made with regard to how the Council have considered your proposal compared to others in the area are not matters for my consideration in this appeal.
13. I accept that the site has some sustainability credentials in terms of its location within the settlement boundary and with good access to shops and services. However, the development of a single market home would bring only limited benefits to the economic and social well-being of the local community. The harm I have identified in the main issue set out above would significantly and demonstrably outweigh the limited benefits that a single dwelling would bring to the overall supply of housing in the area.

### **Conclusion**

14. Although I have found that the proposed development would not have a harmful effect on the living conditions of future occupiers or neighbouring residents, I have found that it would have a harmful effect on the character and appearance of the area. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*Elizabeth Pleasant*

INSPECTOR